IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 16068 of 2005

Between:

Md. Nazeeraba Khan S/o Sardhar Khan
R/o 7/95, Pandurangapuram (V) Ballepally, Post, Khammam Urban
Mandal, Khammam District

..... PETITIONER

AND

The Regional Transport Officer, Khammam,
Khammam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in issuing the Proceeding No.2693/B2/2004, dt.23/6/2005 as illegal, arbitrary and unjust and consequently set aside the Proceeding No.2693/B2/2004, dt.23/6/2005 issued by the Respondent.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent: GP FOR TRANSPORT

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the order of the respondent-Regional Transport Officer dated 23-06-2005 in which the licence of the petitioner was suspended for a period of four months under Section 19 (1) of the Motor Vehicles Act (for short 'M.V. Act').

2. The respondent initiated proceedings against the petitioner as the petitioner while driving the vehicle bearing No.AP 10Z 8884 S/C involved in an accident, as a result of which Crime No.97 of 2005 was registered at the Police Station, Khanapuram, Haveli, and it was reported that the accident was not occurred due to any mechanical defect. The petitioner was given show cause notice calling upon him to show cause and explain why action should not be taken for his negligent driving, and for which the petitioner submitted his explanation. The respondent after considering the explanation, having not satisfied, imposed the punishment. Aggrieved by that, the petitioner has come up with the present writ petition.

3. The contention of the learned counsel for the petitioner is that the action of the respondent is illegal and unsustainable and the alleged accident or incident would not attract the provisions of Section 19 (1) of the M.V.Act. Therefore, the respondent is not entitled to impose the punishment under the impugned order. The learned counsel also contended that though there is a remedy of appeal, as the impugned order is in violation of the provisions of the Act, it is not sustainable.

4. The learned Government Pleader, on the other hand, stated that in view of the statutory appeal available under Section 19 (3) of the M.V. Act to the prescribed authority, who has been shown as the Deputy Transport Commissioner, under Rule 9 of the A.P. Motor Vehicles Rules, 1989, the petitioner has got an effective remedy of appeal who can appreciate both facts

and law.

5. Heard both sides.

6. In view of the above fact that there is an effective remedy of appeal as provided under the statute i.e., Section 19 (3) of the M.V. Act, the petitioner is directed to approach the appellate authority by filing an appeal within a period of two weeks from the date of receipt of a copy of this order. If such an appeal is filed, the appellate authority is directed to dispose of the same expeditiously, preferably, within a period of four weeks from the date of filing of the appeal.

7. Accordingly, the writ petition is disposed of. No order as to costs.

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S.ANANDA REDDY, J

22nd July, 2005

SKM

Copy to:

1. The Regional Transport Officer, Khammam,
Khammam District.

2. Two C.Cs. to G.P. for Transport, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

3. Two C.D. Copies.